

## §6.511

## 40 CFR Ch. I (7–1–05 Edition)

### § 6.511 Record of Decision (ROD) for EISs and identification of mitigation measures.

(a) *Record of Decision.* After a final EIS has been issued, the responsible official shall prepare and issue a ROD in accordance with 40 CFR 1505.2 prior to, or in conjunction with, the approval of the facilities plan. The ROD shall include identification of mitigation measures derived from the EIS process including grant conditions which are necessary to minimize the adverse impacts of the selected alternative.

(b) *Specific mitigation measures.* Prior to the approval of a facilities plan, the responsible official must ensure that effective mitigation measures identified in the ROD will be implemented by the grantee. This should be done by revising the facilities plan, initiating other steps to mitigate adverse effects, or including conditions in grants requiring actions to minimize effects. Care should be exercised if a condition is to be imposed in a grant document to assure that the applicant possesses the authority to fulfill the conditions.

(c) *Proceeding with grant awards.* (1) Once the ROD has been prepared on the selected, or preferred, alternative(s) for the treatment works described within the EIS, grant awards may proceed without the preparation of supplemental EISs unless the responsible official later determines that the project or the environmental conditions described within the current EIS have changed significantly from the previous environmental review in accordance with §1502.9(c) of this title.

(2) For all EIS/ROD determinations:

(i) That are five or more years old on projects awaiting Step 2+3 or Step 3 grant funding, the responsible official shall re-evaluate the project, environmental conditions and public views and, prior to grant award, either:

(A) *Reaffirm*—issue a public notice reaffirming EPA's decision to proceed with the project, and documenting that no additional significant impacts were identified during the re-evaluation which would require supplementing the EIS; or

(B) *Supplement*—conduct additional studies and prepare, issue and distribute a supplemental EIS in accordance with §6.404 and document the

original, or any revised, decision in an addendum to the ROD.

(ii) That are made on projects that have been awarded a Step 2+3 grant, the responsible official shall, at the time of plans and specifications review under §35.2202(b) of this title, assess whether the environmental conditions or the project's anticipated impact on the environment have changed, and prior to plans and specifications approval, advise the Regional Administrator if additional environmental review is necessary.

[50 FR 26317, June 25, 1985, as amended at 51 FR 32613, Sept. 12, 1986]

### § 6.512 Monitoring for compliance.

(a) *General.* The responsible official shall ensure adequate monitoring of mitigation measures and other grant conditions identified in the FNSI, or ROD.

(b) *Enforcement.* If the grantee fails to comply with grant conditions, the responsible official may consider applying any of the sanctions specified in 40 CFR 30.900.

### § 6.513 Public participation.

(a) *General.* Consistent with public participation regulations in part 25 of this title, and subpart D of this part, it is EPA policy that certain public participation steps be achieved before the State and EPA complete the environmental review process. As a minimum, all potential applicants that do not qualify for a categorical exclusion shall conduct the following steps in accordance with procedures specified in part 25 of this title:

(1) One public meeting when alternatives have been developed, but before an alternative has been selected, to discuss all alternatives under consideration and the reasons for rejection of others; and

(2) One public hearing prior to formal adoption of a facilities plan to discuss the proposed facilities plan and any needed mitigation measures.

(b) *Coordination.* Public participation activities undertaken in connection with the environmental review process should be coordinated with any other applicable public participation program wherever possible.